

BULLETIN

TOWN OF NORTH ANDOVER



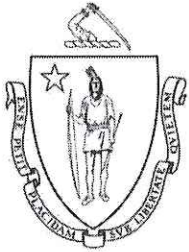
2015 ANNUAL TOWN MEETING ADOPTION OF BYLAWS

Enclosed in this bulletin are Zoning Bylaws and Maps and General Bylaws adopted by the Dissolved Town Meeting for the Town of North Andover held May 19, 2015 and Dissolved on May 19, 2015. Bylaws are as approved by the Office of the Attorney General dated September 11, 2015 – CASE #7685. All maps and bylaws as voted and approved are included herein. Copies of this bulletin are available at the Town Building 120 Main Street, Steven's Memorial Library 345 Main Street, and Office of Community Development and Services 1600 Osgood Street all in North Andover. This bulletin is posted in two locations in each voting precinct (eight) in accordance with Massachusetts General Laws Chapter 40 Section 32. Copies of this Bulletin are available on the Town of North Andover website www.townofnorthandover.com or on request by calling the Office of the Town Clerk at (978) 688-9502.

Claims of invalidity by reason of any defect in the procedure of adoption or amendment of zoning bylaws may only be made within ninety days of this posting.

POSTED: September 15, 2015

JOYCE A. BRADSHAW, CMMC, TOWN CLERK



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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September 11, 2015

Joyce A. Bradshaw, Town Clerk
Town of North Andover
120 Main Street
North Andover, MA 01845

RE: North Andover Annual Town Meeting of May 19, 2015 - Case # 7685
Warrant Articles # 9, 10, 11 and 12 (Zoning)
Warrant Articles # 7 and 8 (General)

Dear Ms. Bradshaw:

Articles 7, 8, 9, 10, 11 and 12 - Except for a partial disapproval of Article 9 (see page 2), we approve Articles 7-12, and the map amendments related to Articles 10-12, from the May 19, 2015 North Andover Annual Town Meeting. We will return the approved maps to you by regular mail. Our comments regarding Article 9 are provided below.

Article 9 makes several amendments to the Town's zoning by-law, Section 18, "Downtown Overlay District." One such change adds a new Subsection 18.8, "Downtown Overlay District - Sub-district A: Historic Mill Area." We offer the following comments on the new sub-section 18.8.

1. Section 18.8.4.2, Uses Allowed by Special Permit.
 - a. *Independent Elderly Housing, Congregate Housing and Assisted Living Nursing Care Facilities*

Section 18.8.4.2 (c) allows independent elderly housing, congregate housing, and assisted living nursing care facilities by special permit in the Sub-District A: Historic Mill Area. The Town must apply this portion of the by-law in a manner consistent with the protections provided to disabled persons under G.L. c. 40A, § 3, which states in relevant part:

Notwithstanding any general or special law to the contrary, local land use and health and safety laws, regulations, practices, ordinances, by-laws and decisions of a city or town shall not discriminate against a disabled person. Imposition of health and safety laws or land-use requirements on congregate living arrangements among non-related persons with disabilities that are not imposed on families and groups of similar size or other unrelated persons shall constitute discrimination. The provisions of this

paragraph shall apply to every city or town, including, but not limited to the city of Boston and the city of Cambridge.

The Town should consult with Town Counsel to ensure that Section 18.8.4.2 (c) is applied consistent with the protections given under G.L. c. 40A, § 3.

b. Photovoltaic Power Generation Systems

Section 18.8.4.2 (m) allows photovoltaic power generation systems by special permit in the Sub-District A: Historic Mill Area, as follows (emphasis added):

photovoltaic power generation systems (for on-site use only, not for resale).

Because the highlighted text in Section 18.8.4.2 (m) proposes to regulate the use of power flowing from such systems (a regulation which exceeds the Town's zoning power), and violates the principle of uniformity, we must disapprove this text in Section 18.8.4.2 (m). **(Disapproval #1 of 1).**

Section 18.8.4.2 (m) proposes to prohibit the "resale" of the generated power and thus regulate what the owner of the photovoltaic power generation system can do with the generated energy. In doing so, the proposed Section 18.8.4.2 (m) exceeds typical zoning considerations (height, size, parking, traffic...) and instead unlawfully regulates based on non-zoning considerations. See, e.g., Dowd v. Board of Appeals of Dover, 5 Mass. App. Ct. 148, 156 (1977) (consideration upon which the special permit grant is made must relate to the land rather than the applicant.)

In addition, G.L. c. 40A, § 4 requires that zoning by-laws be uniform within districts for each class or kind of structure or use permitted. The uniformity requirement of Section 4 is based on the principle of equal treatment. See SCIT, Inc. v. Planning Board of Braintree, 19 Mass. App. Ct. 101, 107 (1984), quoting 1 Williams, American Land Planning Law § 16.06 (1974) ("The uniformity requirement is based upon principles of equal treatment: all land in similar circumstances should be treated alike, so that "if anyone can go ahead with a certain development...then so can everybody else."). As proposed, Section 18.8.4.2 (m) would treat two equal sized photovoltaic power generation systems differently based on how the generated power is used. This restriction on otherwise equal facilities violates the principle of uniformity. For this additional reason, we must disapprove and delete the highlighted text in Section 18.8.4.2 (m).

If the Town wishes to amend this text at a future Town Meeting, the Town should note that G.L. c. 40A, § 3, protects solar energy systems and the building of structures that facilitate the collection of solar energy, and provides in pertinent part as follows:

No zoning ordinance or bylaw shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

There are no court decisions to guide the Town or this Office in determining what qualifies as an unreasonable regulation of solar uses in contravention of G.L. c. 40A, § 3. However, The Town should consult with Town Counsel on this issue.¹

2. Section 18.8.10.9, Procedures.

Section 18.8.10.9 (c) provides as follows:

An applicant for a Sub-district A Definitive Master Plan Special Permit shall file with the Planning Department an application form, fee, the Definitive Master Plan, any additional information as may be required as described herein or as provided in regulations and/or instructions of the Planning Board. Once the application is deemed complete, the Planning Department will forward one copy of the application to the Town Clerk. An application will not be deemed complete until all required information and fees are submitted. The time periods set forth in this Zoning Bylaw and M.G.L. c. 40A will not start until the application has been deemed complete and submitted to the Town Clerk. The application shall also be subject to the procedures and requirements for special permits under Section 10.3 and 10.31 of the Zoning Bylaw.

The Town must apply this section in a manner consistent with G.L. c. 40A, § 9, which makes it clear that the special permit granting authority: “shall hold a public hearing for which notice has been given as provided in section eleven, on any application for a special permit within sixty-five days from the date of filing of such application . . . Failure by the special permit granting authority to take final action within . . . ninety days . . . shall be deemed to be a grant of the special permit.” (emphasis added). In addition, G.L. c. 40A, § 9, requires that the special permit application be filed with the Town Clerk, as follows: “each application for a special permit shall be filed by the petitioner with the...town clerk and a copy of said application, including the date and time of filing certified by the...town clerk, shall be filed forthwith by the petitioner with the special permit granting authority.” Therefore, the filing of any special permit application (not just a completed application), with the Town Clerk, begins the administrative clock under G.L. c. 40A, §§ 9, 11, and 15. Mark Bobrowski, Handbook of Massachusetts Land Use and Planning Law, § 10.03 (2003). The Town should consult with Town Counsel on the proper application of Section 18.8.10.9 (c).

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

¹ If the Town wishes to attempt to amend this section regarding photovoltaic power generation system uses at a future Town Meeting, we are happy to review a proposed draft in advance of Town Meeting.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

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cc: Town Counsel Thomas J. Urbelis



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This is to certify that the following vote on Article 7 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Article 7: Amend General Bylaws – Chapter 44 Public Meetings. Unanimous vote to amend the Town of North Andover General Bylaws, Chapter 44 – Public Meetings, as follows by deleting text shown as strikethrough and adding text shown a bold and underlined:

CHAPTER 44 – Public Meetings

44-1 Televising of Board Meetings

All meetings of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen, ~~and~~ School Committee **and Finance Committee** shall be broadcast live over the local cable television network unless emergency or operational or technical conditions suspend the requirements hereof, as determined by the Town Manager or the Manager's designee. All such meetings shall occur in the Town Hall second floor meeting room or other locations as determined by the Town Manager or the Town Manager's designee. Notice of all such meetings shall be posted in accordance with the requirements of the Open Meeting Law, Massachusetts General Law, Chapter 30A, Sections 18-25 and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting, including application names. If there is a scheduling conflict with the use of the meeting room, the Town Manager or the Manager's designee, shall have the discretion to determine which Board shall have use of the room. Nothing contained in this bylaw shall be so construed as to conflict with the requirements of the Open Meeting Law, M.G.L. 30A, Sections 18-25. A violation of this bylaw or a failure to comply with this bylaw shall not be grounds for challenging or invalidating any actions taken at any meeting of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen, ~~or~~ School Committee **or Finance Committee.**

Chapter 44

PUBLIC MEETINGS

HISTORY: Adopted by the Town of North Andover May 10, 2005 Annual Town Meeting Article 21. Approved by Attorney General August 29, 2005. Amended-Article 9 Special Town Meeting November 17, 2010. Approved by Attorney General March 14, 2011-Posted March 16, 2011. Amendments noted where applicable.]

§ 44-1 **Televising of Board Meetings.**

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All meetings of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen and School Committee shall be broadcast live over the local cable television network unless emergency or operational or technical conditions suspend the requirements hereof, as determined by the Town Manager or the Manager's designee. All such meetings shall occur in the Town Hall second floor meeting room or other locations as determined by the Town Manager or the Town Manager's designee. Notice of all such meetings shall be posted in accordance with the requirements of the Open Meeting Law, Massachusetts General Law, Chapter 30A, Sections 18-25 and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting, including application names. If there is a scheduling conflict with the use of the meeting room, the Town Manager or the Manager's designee, shall have the discretion to determine which Board shall have use of the room. Nothing contained in this bylaw shall be so construed as to conflict with the requirements of the Open Meeting law, M.G.L. 30A, Sections 18-25. A violation of this bylaw or a failure to comply with this bylaw shall not be grounds for challenging or invalidating any actions taken at any meeting of the Planning Board, Zoning Board of Appeals, Board of Health, Conservation Commission, Board of Selectmen or School Committee.

Voted May 19, 2015



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This is to certify that the following vote on Article 8 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Article 8: Amend General Bylaws – Chapter 88 Dogs. Unanimous vote to amend the Town of North Andover General Bylaws, Chapter 88 – Dogs, as follows:

Section 88-1 is hereby amended by deleting '175' and inserting '174E' in place thereof so that Section 88-1 shall read

88-1 Animal Control

Pursuant to the authority set forth in MGL Chapter 140, §§136A to 174E, the following bylaw is enacted for the regulation of dogs in the Town of North Andover.

Section 88-2.2 is hereby amended by deleting '175' and inserting '174E' in place thereof so that Section 88-2.2 shall read

88-2.2 Destruction

An order by the Hearing Authority that a vicious dog be destroyed in accordance with MGL Chapter 140, §§136A to 174E and Massachusetts Society for the Prevention of Cruelty to Animals guidelines.

Section 8-2.15 is hereby deleted and the following Section inserted in place thereof

88-2.15 Vicious Dog

The term "vicious dog" shall have the same meaning as the term "dangerous dog" as defined in MGL Chapter 140, §136A.

Voted May 19, 2015



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This is to certify that the following vote on Article 9 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Changes in red amend printed warrant. Text below displayed and voted.

Article 9: Amend Zoning Bylaw – Section 18: Downtown Overlay District.
Unanimous vote to amend the Town of North Andover Zoning Bylaw, Section 18 – Downtown Overlay District, by making the following amendments to Subsections 18.1 and 18.7 (by identifying text which is deleted as strikethrough and text added as underlined), and by adding a new sub-district under new Subsection 18.8 “Downtown Overlay District – Sub-district A: Historic Mill Area,” as follows:

Amend Zoning Bylaw Subsection 18.1 by deleting the phrases “...including the mill buildings,...” and “...through Annual Town Meeting 2008...” in the first paragraph, so that Subsection 18.1 reads as follows:

Section 18 Downtown Overlay District

18.1 Location and Applicability

The Downtown Overlay District shall consist of the area delineated on the Town’s zoning map, but shall include the area along Main Street from Sutton Street to Merrimac Street; Water Street from the intersection with Main Street to High Street, ~~including the mill buildings~~; portions of Waverley Road, First Street and Second Street; Ellis Court; School Street; Saunders Street; and Cleveland Street. Said area is described on the Town of North Andover Zoning Map as amended ~~through Annual Town Meeting 2008~~.

An application for the Downtown Overlay District shall be in accordance with the standards set forth in this section and shall be reviewed by the Planning Board, as Special Permit Granting Authority, or otherwise. An application for the Downtown

Overlay shall be deemed to satisfy the requirements for Site Plan Review as described in Section 8.3.

Amend Subsection 18.7 ("Waivers") by deleting the text therein, and renumbering Subsection 18.8 as new Subsection 18.7, and by deleting the phrase "...., unless waived in accordance with

Section 18.7." so that new Subsection 18.7 reads as follows:

~~18.7~~ Waivers

~~Where it can be demonstrated to the Planning Board, as the Special Permit Granting Authority, that the following waivers are consistent with one or more of the purposes of this District, as defined in Section 18.0, would enhance or facilitate the planning, design, and/or layout of existing or new structures or uses permitted within the District, and would not interfere or negatively impact abutting properties, the Planning Board may grant those waivers:~~

- ~~a. Waivers of limited dimensional, design, or other criteria set forth in Sections 18.3 through 18.6 of the Downtown Overlay District;~~
- ~~b. Waivers of other limited dimensional, design, density, or other criteria under the Zoning Bylaw.~~
- ~~c. Notwithstanding anything to the contrary in the Zoning Bylaw, no waiver shall be granted for building height in excess of the building height existing on the parcel as of the date of the adoption of this amendment, or for floor area ratio in excess of 2.0.~~
- ~~d. The Planning Board's authority to grant waivers as described herein shall expire two (2) years after the date of adoption of this Section 18.7.~~

~~18.8~~ Relationship to Underlying Zoning:

The Downtown Overlay District is an overlay district superimposed on all underlying zoning districts. Within the Downtown Overlay District, the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those sites undergoing development in accordance with Section 18. To the extent that there is a conflict between the provisions of the underlying zoning and the provisions of the Downtown Overlay District, the provisions of Section 18 shall govern, ~~unless waived in accordance with Section 18.7.~~

Amend Section 18 by creating a new sub-district as a new Subsection 18.8 ("Downtown Overlay District—Sub-district A: Historic Mill Area") described as follows:

Section 18.8 Downtown Overlay District—Sub-district A: Historic Mill Area

18.8.0 Purpose.

The purpose of Sub-district A is to:

- a) Encourage a diverse mix of residential, business, commercial, office, governmental, institutional, entertainment and other uses for workers, visitors, and residents;
- b) Not detract from the livability and aesthetic qualities of the environment.
- c) Promote more efficient use of land while protecting natural resources, such as water resources, wetlands, floodplains, and wildlife.
- d) Permit the preservation of existing structures through conversion to new uses in a manner that maintains and enhances the visual character and architectural scale of existing development within the district;
- e) Permit an appropriate density of new development to support a vibrant, mixed-use area;
- f) Encourage first floor retail/restaurant space
- g) Encourage an active streetscape through mixed-uses and high quality design;
- h) Encourage a pedestrian and bicycle friendly environment;
- i) Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.
- j) Encourage consolidation of curb cuts for vehicular access and promote more efficient and economical parking facilities.
- k) Allow for more compact development than may be permitted in other zoning districts to reduce the impacts of sprawl;

18.8.1 Establishment

Sub-district A - Historic Mill Area of the Downtown Overlay District is established as a separate and independent sub-district from the Downtown Overlay District provisions under Sections 18.0 through 18.7 of the Zoning Bylaw, and this Section 18.8 is superimposed over all underlying zoning districts established by the Zoning Bylaw now or hereafter applicable to the properties historically known as the former Davis & Furber Machine Company, and is shown as Downtown Overlay District: Sub-district A on the Zoning Map prepared by the North Andover Division of Community Development. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town.

18.8.2 Boundaries

Boundaries of the Downtown Overlay District – Sub-district A: Historic Mill Area are shown on the Zoning Map and shall include all of the real property as identified on the FY 2014 Town of North Andover Assessor's Map: Map 54 Parcel 1, Map 53 Parcel 25, Map 68 Parcel 10, Map 68 Parcel 1, and Parcel 3, as described by deed in Book 10601, Page 340 for the former rail road right of way, as more particularly shown on the Zoning Map.

18.8.3 Applicability and Relationship to Underlying Zoning

An application for a proposed project located within Sub-district A–Historic Mill Area may either use the standards in the underlying zoning district in their entirety, or those standards contained within Section 18.8 in their entirety. For those sites for which an application is filed in accordance with Section 18.8,

review shall be in accordance with the standards set forth in this Section 18.8 by the Planning Board, as Special Permit Granting Authority, or otherwise. If an applicant elects to file an application for a project in accordance with the requirements of this Section 18.8, then to the extent that there is any conflict between the provisions set forth in this Section 18.8 and any other provisions of the Zoning Bylaw, the terms of this Section 18.8 shall govern.

18.8.4 Permitted Uses

The following uses are permitted, as more specifically described below:

18.8.4.1 The following uses shall be permitted by right in the Sub-district A:

- a) Detached one- or two-family residential structures;
- b) Multifamily dwellings, up to 6 dwelling units;
- c) Townhouses;
- d) Mixed-use structures (for permitted uses);
- e) Retail sales establishments, excluding automobile service station, car wash, body shop, automobile repair shop, or sales of motor vehicles, of no more than 15,000 square feet of floor area;
- f) Restaurant, café, or other establishment serving food and/or beverages, establishments of no more than 15,000 square feet of floor area;
- g) Business Office ((a primary use consisting of office activities of any type, including business and financial office activities (including banks and financial institutions) and professional office activities, excluding automobile service station, car wash, body shop, or automobile repair shop));
- h) Professional Office (A primary use consisting of office activities by a doctor, dentist, architect, lawyer, engineer or other professional person or persons);
- i) Day care center;
- j) Hall, club, theater, or other place of assembly, establishments of no more than 15,000 square feet of floor area;
- k) Place of recreation;
- l) Veterinary hospital;
- m) Research and development facilities;
- n) Light manufacturing, including fabrication, processing, finishing, assembly, packing or treatment of articles or merchandise, craft brewing or food processing, provided such uses are conducted solely within a building;
- o) Printing and reproduction;
- p) Educational uses exempt from zoning prohibition by General Laws Chapter 40A, Section 3.
- q) Religious uses exempt from zoning prohibition by General Laws Chapter 40A, Section 3.
- r) Art gallery or museum;
- s) Public building or use and public service corporations;

18.8.4.2. The following uses shall be permitted by special permit by the Planning Board in the Sub-district A:

- a) Multifamily dwelling, seven or more units;
- b) Mixed-use structures for uses allowed by special permit.
- c) Independent elderly housing, congregate housing, assisted living, nursing care facilities;
- d) Retail sales, establishments excluding automobile service station, car wash, body shop, automobile repair shop, or sales of motor vehicles, of more than 15,000 square feet of floor area;
- e) Restaurant, café, or other establishment serving food and/or beverages, establishments of more than 15,000 square feet of floor area;
- f) Hall, club, theater, or other place of assembly, establishments of more than 15,000 square feet of floor area;
- g) Hotel or Motel;
- h) Hospital;
- i) Warehousing and wholesaling;
- j) Pet day care or boarding;
- k) Any drive-through facility accessory to an above use;
- l) Free-standing automated teller machine;
- m) Photovoltaic power generation systems ~~(for on-site use only, not for resale);~~ (DISAPPROVED BY ATTORNEY GENERAL-SEPTEMBER 11, 2015)
- n) Public garage;
- o) Any accessory use customarily incident to any of the above permitted uses, provided that such use shall not be noxious or dangerous to the neighborhood

18.8.4.3 Other uses. All other uses are hereby expressly prohibited except uses which are substantially similar in character to the permitted uses enumerated above, as determined by the Planning Board, shall be treated as requiring a Special Permit to be issued by the Planning Board.

18.8.5 Design Guidelines

Redevelopment and new construction within the Overlay District shall be designed in a fashion to achieve one or more of the purposes of Sub-district A described in Section 18.8.0. The following guidelines are intended to aid the Planning Board in its review of projects during both the Master Plan and Definitive Plan review stages as described under Section 18.8.10, and are intended to be flexible guidelines and not rigid standards which the Planning Board may consider:

- a) Where appropriate, new buildings should be oriented to face the public way, set close to the sidewalk, with parking located to the side or behind the buildings rather than between the building and the street.
- b) Buildings shall be oriented to encourage convenient pedestrian and bicyclist access and public activity in visible areas.

- c) Large blank walls should be avoided. New buildings should be divided visually into sub-elements, where appropriate, to express the functional diversity within the building; similarly, commercial ground floors of new buildings should emphasize transparency similar to traditional store fronts or the existing mill buildings.
- d) New curb cuts on existing public ways shall be minimized.
- e) Where possible, it is preferable to have underground utilities for new and redeveloped buildings.
- f) Where possible historic features of historic buildings shall be preserved.
- g) Signage and lighting shall be sufficient and consistent with the proposed use.
- h) New development shall transition in height, density, scale, intensity, and use from the existing mill buildings to the surrounding neighborhoods abutting the Sub-district A.

18.8.6 Dimensional and Density Standards

18.8.6.1 Setbacks.

- (a) Existing Buildings and Structures. In keeping with the purpose of Sub-district A it is recognized that the existing buildings have been developed with distinct development patterns to match the traditional needs of the lots and buildings that have made the Historic Mill Area unique. Building setbacks within the Sub-district A for buildings and structures in existence as of the date of adoption of this Section 18.8 shall include a minimum front yard setback, side yard setback, and rear yard setback of zero.
- (b) New buildings and Structures, Additions to Existing Buildings and Structures. New buildings and structures, as well as additions to those buildings and structures existing as of the date of adoption of this Section 18.8, shall be subject to the following minimum dimensional requirements:
 - (i) A 35-foot setback of a new building from the Sub-district A boundary is required when the Sub-district A lot line abuts a residential zoning district located outside Sub-district A, subject to Section 18.8.6.2 below. The first 15 feet of the setback abutting the residential zoning district shall remain open and green, be suitably landscaped, unbuilt upon, unpaved, and not parked upon.
 - (ii) A 20 foot setback is required from any side or rear lot line for all newly constructed buildings, where not abutting a residential zoning district located outside Sub-district A, subject to Section 18.8.6.2 below.
 - (iii) With regard to additions to those buildings and structures existing as of the date of adoption of this Section 18.8, only the new portions of such additions shall be subject to the setback requirements under Section 18.8.6.1(b).

18.8.6.2 Building Height

- (a) Existing Buildings and Structures. The building height of buildings and structures in existence as of the date of adoption of this Section 18.8 shall be deemed to be compliant with building height requirements under this Zoning Bylaw. Any increase in building height for existing buildings and structures in existence as of the date of adoption of this Section 18.8 shall require a Special Permit issued by the Planning Board.
- (b) New buildings and Structures; Additions to Existing Buildings and Structures. New buildings and structures, as well as additions to buildings and structures in existence on or before the date of adoption of this Section 18.8, shall be limited to 55 feet in building height by right where located within the underlying I-S district, or within 100 feet of the underlying I-S zoning district boundary by special permit; and where such buildings or structures are not located within the underlying I-S district or within 100 feet of the underlying I-S zoning district boundary, the height limit shall be 35 feet by right, and such building or structure having a Building Height in excess of 35 feet but not more than 55 feet, shall be permitted only by special permit.

Notwithstanding anything to the contrary in this Section 18.8, new buildings or structures, as well as additions to buildings and structures constructed after the date of the adoption of this Section 18.8, may be allowed between 55 feet and 70 feet in building height by special permit issued by the Planning Board, provided that a portion of such structure's occupiable space is located within 50 feet of a structure existing on or before the adoption of this Section 18.8, and that no part of such structure is located more than 200 feet from such an existing structure.

18.8.6.3 Floor Area Ratio

A maximum Floor Area Ratio of 1.0 shall be permitted by right. By special permit, the Planning Board may permit an FAR of up to 2.0, where it can be shown to be consistent with the purposes of Section 18.8.0. For the purposes of calculating FAR, the lot area shall be the sum of all parcels included as part of a Master Plan per Section 18.8.10 and located within the Overlay; parcels included may be separated by public rights of way or other privately held land, and are not required to be held in common ownership.

18.8.6.4 Extension, Alteration and Reconstruction of Existing Buildings and Structures

Notwithstanding any provisions of this Zoning Bylaw to the contrary, buildings and structures existing as of the date of adoption of Section 18.8 may be extended or altered or reconstructed, provided, that no such extension or alteration or reconstruction shall be permitted unless there is a finding by the Planning Board, as the special permit granting authority, that such change,

extension or alteration or reconstruction shall not be substantially more detrimental than the existing structure to the neighborhood and shall be consistent with the purposes of Section 18.8.

18.8.7 Site Design Guidelines

To encourage good site design, the Planning Board shall encourage the use of the following site design and architectural features, where appropriate, in reviewing an Application.

18.8.7.1 Urban Design Features

- a. Alleys, parks or open spaces, patios, sidewalks and planting strips, outdoor seating areas for private commercial use
- b. Building type (for example townhouse, storefront retail)
- c. Signage

18.8.7.2 Architectural features for any work consisting of an increase in floor area through either the placement or construction of a new principal structure, a new accessory structure, an addition, alteration or rehabilitation to a principal or accessory structure, a conversion of one use type to another, or any new use or structure requiring a curb cut:

- a. Building facades (new and rehabilitation & repair)
- b. Exterior features
- c. Building height, setbacks and build-to-lines
- d. Exterior materials, doors and windows
- e. Exterior colors
- f. Signage, flags and banners
- g. Sign design standards as applicable and consistent with Section 6 of this Bylaw
- h. Exterior illumination

18.8.7.3 On-site and off-site improvements

- a. Fences and walls
- b. Patio, square, or plaza
- c. Landscaping with areas and plants noted
- d. Special pavement and sidewalk treatment
- e. Setbacks and sidewalk and utility easements
- f. Street and parking lot lighting
- g. Street furniture, trash containers, benches news racks, kiosks
- h. Parking standards including shared parking agreements
- i. Refuse storage and access
- j. Traffic circulation plan and street improvements as needed to relieve excessive congestion

18.8.8 Site and Design Standards.

The site and design criteria within this Section shall be applicable to all residential projects greater than six (6) units, mixed use and nonresidential property.

18.8.8.1 Site Access

- a. Curb cuts within two hundred (200) feet of intersections shall be minimized.
- b. Curb cuts greater than thirty (30) feet and driveway openings greater than twenty (20) feet shall be minimized. Full width curb cuts are prohibited.

18.8.8.2 Parking. Existing and proposed structures and uses within the Overlay shall provide adequate off street parking for activities within the development in accordance with the standards described in Section 8.1. The Planning Board may waive any requirements of Section 8.1, including, but not limited to, required ratios, design standards, or location where it can be shown to further the Purpose of this Section in accordance with the review procedures of Section 18.8.8. Street parking within 100 yards of a parcel shall be deemed included in the parking count for the property. In addition, leased or owned parking within 400 yards of the property line may be used to meet the parking requirement by special permit.

As part of its review of the Master Plan and subsequent Definitive Plan(s), the Planning Board shall review proposed parking ratios, locations, and design standards to ensure that adequate parking is provided and that the Purposes of Section 18.8.0 and the Guidelines of Section 18.8.5 are being satisfied. In making this determination, the Planning Board shall consider opportunities for shared parking for visitors to multiple uses on site, uses operating at different times of the day or week, and the presence of public on-street parking.

18.8.8.3 Bicycle Accommodation. Bicycle parking shall be provided in safe locations, and conveniently accessible to entries and/or sidewalks. An appropriate number of spaces shall be determined as part of Master Plan and subsequent Definitive Plan review.

18.8.8.4 Pedestrian Accommodation. Parking, sidewalks, and landscaping areas shall provide for safe and convenient pedestrian circulation through the site, to buildings, parking areas, and public ways.

18.8.8.5 Landscaping and Appearance. Redeveloped or newly developed areas of the site shall be landscaped in an attractive way that enhances the character of the development as a downtown, mixed-use neighborhood.

- a) Any required setback from a residential property, per Section 18.8.6.1.a) shall be screened by a solid fence or tight landscaping having a height of no less than five (5) feet unless such screening would interfere with sight distance. A chain link fence shall not be permitted.

- b) New parking areas with more than 20 parking spaces shall devote at least 5% of the interior of parking area to landscaping. In addition a minimum of 1 shade tree shall be planted for every six parking spaces built. In the event planting trees would not be practical amid the parking area, planting of shade trees elsewhere on the property shall satisfy this requirement.
- c) A minimum of 1 shade tree shall be planted for every 40 feet of street frontage or fraction thereof in appropriate locations.
- d) Where appropriate, benches, planters, outdoor seating, and other amenities shall be installed to encourage pedestrian use.

18.8.8.6 Waiver. The preceding provisions under this Section 18.8.8 may be waived as a part of a Sub-district A special permit issued by the Planning Board where such waiver furthers one or more of the Purposes of Section 18.8.0

18.8.8.7 Noise. As a mixed-use center containing office, retail, and light industrial uses among others, it is acknowledged that tenants as well as mechanical systems may emit noise. All development shall comply with applicable state air pollution control regulations and policies in connection with sound levels.

18.8.8.8 Light. The site shall be adequately lit to provide for safety and visibility. Lighting instruments shall be oriented or shielded such that they do not have spillover of greater than one foot candle onto abutting properties or interfere with public ways.

18.8.9 Sign Master Plan

Notwithstanding anything to the contrary in this Bylaw, and as part of Definitive Plan review, the Planning Board may approve a comprehensive signage master plan for the project which, if approved by the Planning Board, may allow for signage which deviates from the specific sign requirements of the Zoning Bylaw, including Section 6.6, provided that such signage would, in the opinion of the Planning Board, be consistent with the general purpose and intent of Section 18.8.0. The signage master plan proposal should show proposed sizes, locations, and general design approach for signs, banners, awnings, etc. in such detail as the Planning Board may deem reasonably necessary to make a decision to approve such master plan. Following approval of a signage master plan as part of any Definitive Plan, signs may be installed, removed, and replaced with the approval of the Building Inspector, provided that such signage conforms to the signage plan approved in the Definitive Plan decision.

18.8.10 Plan Review and Approval Process

The review and approval process for an application for approval of a project under this Section 18.8 shall be governed by the following review procedures:

18.8.10.1 Uses which are permitted by right are allowed within buildings and structures in existence as of the date of adoption of this Section 18.8, subject to building code and other applicable Town bylaw and regulations.

18.8.10.2 Approval of a use requiring a special permit, and/or approval of a new structure or expansion of an existing structure, shall require a special permit, subject to the following procedure:

18.8.10.3 Pre-Application Conference. Prior to the submission of Preliminary Master Plan or Definitive Plan under Sub-district A, the applicant, at its option, may confer with the Planning Board and Town Planning Staff to obtain information and guidance before beginning the formal application process.

As a part of the Pre-Application Conference, the Planning Board may agree to waive the Preliminary Master Plan process described in Section 18.8.10.4 below and proceed directly with the filing of a Definitive Plan if it deems that the submission of a Master Plan is unnecessary, due to the minor nature of the proposal.

18.8.10.4 Submission and Approval of Preliminary Master Plan. The applicant shall file, if not waived by the Planning Board as provided above, a Preliminary Master Plan accompanied by an application for Preliminary Master Plan Review with the Planning Board, and the Board shall schedule a meeting at a regularly scheduled Board meeting which shall be noticed in accordance with Section 11 of M.G.L. c. 40A. A copy of the Preliminary Master Plan and the above form shall also be filed in the Office of the Town Clerk. The Planning Board shall review and determine whether the proposed project is consistent with the objectives articulated under Section 18.8.0 within 60 days of receipt of the plan by the Town Clerk. In approving a Master Plan, the Planning Board may suggest modifications and changes in anticipation of the filing of the Definitive Plan(s).

A Preliminary Master Plan shall include the following components:

- a) A locus plan, showing the names of abutters, land uses, and location and width of all adjacent streets.
- b) An existing site plan, showing existing buildings or structures, parking and circulation areas, open space, landscaping and topography, easements, public areas within or next to the development, and lot boundaries and areas.
- c) A proposed conceptual site plan, showing, in a general manner, all proposed buildings or structures, parking and circulation areas, open space, landscaping and topography, easements, public areas within or next to the development, proposed lot boundaries and areas, and the

proposed system of drainage, including adjacent existing natural waterways.

- d) A narrative including: a description of the overall concept for the Master Plan, including general building locations, site improvements, and land uses, and demonstrating how the Plan conforms to the Purpose of this Section; a description of the natural features of the site, including wetlands, floodplains, slopes over 12%, soil conditions, and other features requested by the Planning Board; and a description of the neighborhood in which the tract lies, including environment, traffic, utilities, and other public facilities and the general impact of the proposed Master Plan upon the Town.

18.8.10.5 Submission and Approval of Definitive Plan. Following approval of a Preliminary Master Plan, the expiration of the 60-day period above without Planning Board action on the Preliminary Master Plan, or waiver of the same as provided above, the applicant shall file a Definitive Plan accompanied by an application for Definitive Plan Review prior to an application for a building permit. Review of a Definitive Plan shall follow the procedures of Section 18.8.10.9 and Section 9 of M.G.L. c. 40A. An application for Definitive Plan approval shall include the following components unless waived by the Planning Board:

- a. A locus plan showing the names of abutters, land uses, and location and width of all adjacent streets.
- b. Landscape plans showing proposed plantings.
- c. Engineered drawings showing proposed utilities, storm water management, vehicular circulation, parking, and other requirements as appropriate.
- d. Proposed sign master plan, as described in Section 18.8.9.
- e. A narrative describing how the proposed building(s), anticipated land uses, site design, parking, circulation, landscaping and other features conform to the Master Plan Special Permit and the Purpose of this Section.
- f. It shall be drawn at a scale of one-inch equals forty feet unless another scale is requested and found suitable by the Planning Board.
- g. The Plan shall be prepared by a land surveyor, professional engineer, or architect.
- h. The scale, date, and north arrow shall be shown.
- i. The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the buildings, setbacks, and all other required dimensions, elevations, and measurements and shall be signed under the penalties of perjury.
- j. The corner points of the lot and change of direction of lines shall be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker and shall be so marked.
- k. Lot number, dimensions of lot in feet, size of lot in square feet, and width of abutting streets and ways.

- l. Easements within the lot and abutting thereon.
- m. The location of existing or proposed buildings on the lot.
- n. The location of existing wetlands, water bodies, wells, 100 year floodplain elevation and other natural features requested by the Planning Board.
- o. The dimensions of the existing and proposed buildings in feet.
- p. The distance of existing and proposed buildings from the lot lines and the distance between buildings on the same lot.
- q. Percent of the lot coverage.
- r. Average finished grade of each proposed building.
- s. The elevation above average finished grade of the floor and ceiling of the lowest floor of each proposed building.
- t. Existing and proposed topographical lines at two (2) foot intervals.
- u. Height of all proposed buildings, above average finished grade of abutting streets.

18.8.10.6 Phasing. In the event of phased development of an approved Master Plan, the applicant may divide the proposed development described in the Master Plan into several phases which shall be reviewed either through a single combined Definitive Plan, or through a series of separate Definitive Plans that address the proposed area of work.

18.8.10.7 Consolidation of Review. An application for approval under this Section 18.8 is also intended to consolidate review and approval under other applicable provisions of this Zoning Bylaw as a single special permit review process with a single special permit issued by the Planning Board. To this end, if an application for approval under this Section 18.8 also triggers review under Section 8.1 (Parking), and/or 8.3 (Site Plan Approval) and/or Section 6.6 (signs), the Planning Board shall consolidate its review such that an application filed under Section 18.8 for a Sub-district A special permit shall be deemed to satisfy the requirements under Sections 8.1, 8.3, and 6.6, and the Applicant shall also use the standards under said Sections 8.1, 8.3 and 6.6 as guidance and without the need to file for separate zoning relief under said Sections, and the conditions and requirements under Sections 8.1 and/or 8.3 and/or 6.6 shall be incorporated into the Sub-district A special permit review and approval process.

18.8.10.8 Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Definitive Plan Approval application. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, town counsel, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued shall be returned to the applicant.

18.8.10.9 Procedures

- a. The Sub-district A **Definitive** Master Plan approved by the Planning Board under Section 18.8 becomes the official development plan for a site for which an application for Sub-district A **Definitive** Master Plan Special Permit is filed. Town permits shall be issued or withheld based upon compliance with the approved **Definitive** Master Plan. The approved **Definitive** Master Plan is legally binding and can only be changed or adjusted in compliance with the provisions contained in Section 18.8.10.10 (Revisions to Approved **Definitive** Master Plans).
- b. A **Definitive** Master Plan approval is by Special Permit issued by the Planning Board, as special permit granting authority, and shall be noticed in accordance with Sections 9 and 11 of M.G.L. c.40A.
- c. An applicant for a Sub-district A **Definitive** Master Plan Special Permit shall file with the Planning Department an application form, fee, the **Definitive** Master Plan, and any additional information as may be required as described herein or as provided in regulations and/or instructions of the Planning Board. Once the application is deemed complete, the Planning Department will forward one copy of the application to the Town Clerk. An application will not be deemed complete until all required information and fees are submitted. The time periods set forth in this Zoning Bylaw and M.G.L. c..40A will not start until the application has been deemed complete and submitted to the Town Clerk. The application shall also be subject to the procedures and requirements for special permits under Sections 10.3 and 10.31 of the Zoning Bylaw.
- d. The Planning Board shall have the authority to require that the applicant pay for necessary professional services required to adequately review and analyze the contents of any **Definitive** Master Plan or technical review requested by the Board.

18.8.10.10 Revisions to Approved Definitive Master Plan

- (a) Any revisions to a development that has secured Sub-district A **Definitive** Master Plan approval shall be submitted to the Town Planner for review. No revisions shall be approved until the Town Planner receives three (3) copies of the revised plan and the revisions placed on the plan fall into the following categories:
 - (i) A change of location and layout of any parking area(s), signs, storage or accessory buildings, provided that no Town Bylaws are violated by the change;
 - (ii) The change in the proposed landscaping plan which does not violate any Town Bylaw;
 - (iii) A change of egress and ingress provided the same is in compliance with Town Bylaws and the requirements of the Commonwealth; or,
 - (iv) Such other adjustments deemed minor by the Town Planner with consent by the Planning Board.

(b) The revisions cited above may be completed without further approval by the Planning Board, upon approval by the Town Planner. The Town Planner may determine that the revisions as shown do not fall into the categories outlined in this subsection, and that the proposed revisions are in fact substantial and call for a materially different site plan than approved by the Planning Board in that changes are called for in the type, location and manner of the facilities and site improvements to be constructed and shown in the approved **Definitive** Master Plan.

(c) If the revisions are determined to be substantial and materially different by the Town Planner, the Town Planner shall direct the applicant to resubmit the site plan to the Planning Board for approval in accordance with the provisions of this section.

18.8.10.11 Standards for Approval – Special Permit.

In addition to satisfying the specific criteria for the grant of a special permit contained in Section 10.31 of this bylaw, and under Section 9 of M.G.L. c. 40A, the Planning Board shall issue a special permit only after consideration of the following factors:

- a) Compliance with the criteria established under this Section 18.8 unless otherwise waived;
- b) Impact on the neighborhood visual character, including architectural design, views and vistas; and,
- c) The project meets one or more of the purposes established under Section 18.8.0.

Voted May 19, 2015



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

Telephone (978) 688-9501
Fax (978) 688-9557

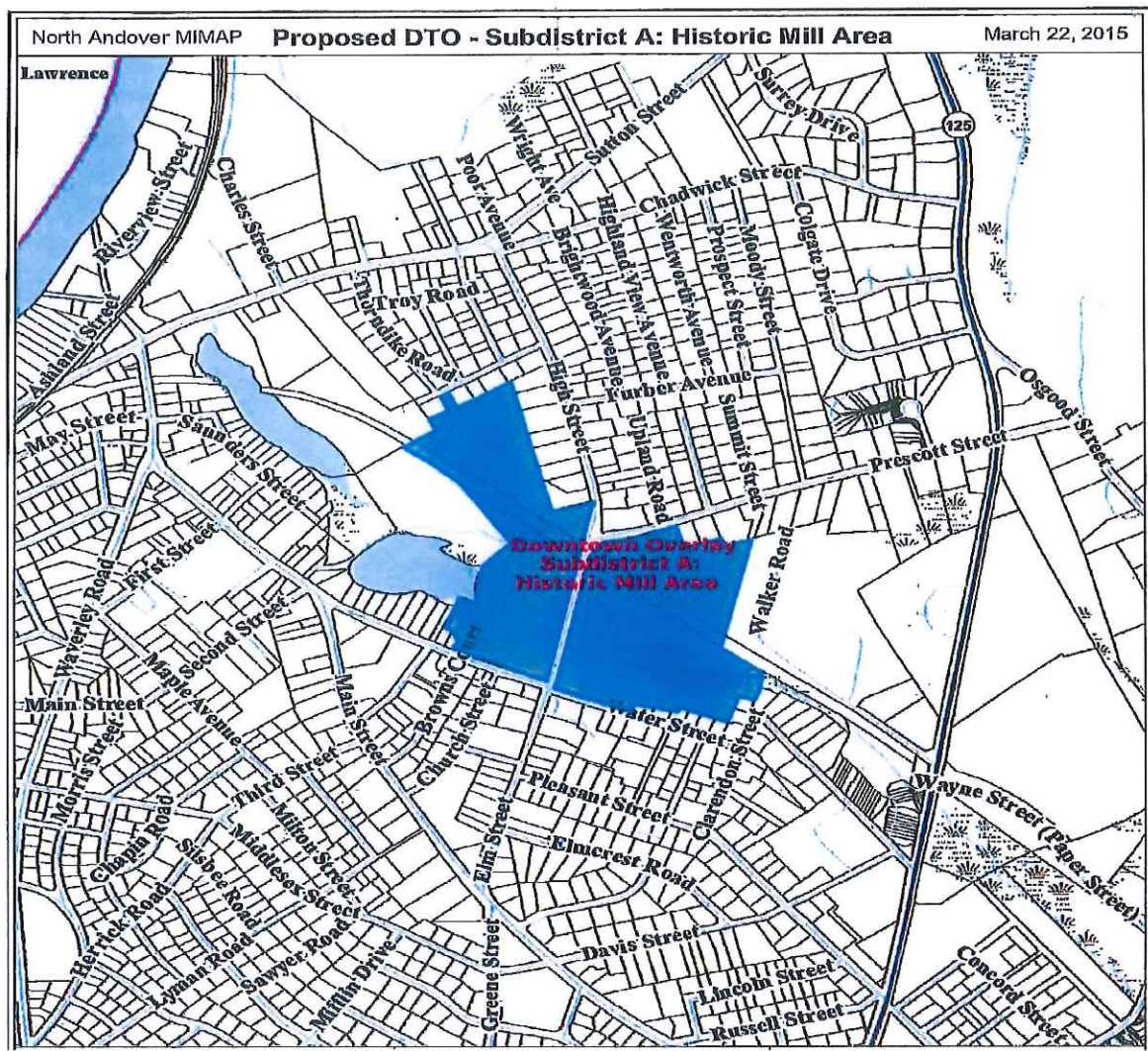
E-mail jbradshaw@townofnorthandover.com

This is to certify that the following vote on Article 10 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Article 10: Amend Zoning Map – Downtown Overlay District. Unanimous vote to amend the Zoning Map for the Town of North Andover by rezoning certain parcels of land to be included within the Downtown Overlay District – Sub-district A: Historic Mill Area, identified on the 2014 Town of North Andover Assessor's Maps as: Map 53 Parcel 25; Map 54 Parcel 1; Map 68 Parcel 10; Map 69 Parcel 1; as well as a certain parcel of land depicted as a former railroad right of way and described as Parcel 3 in a deed recorded with the Essex North District Registry of Deeds in Book 10601, Page 340, as more particularly shown as the shaded area depicted on the map entitled "Proposed DOT – Sub-district A: Historic Mill Area", dated March 22, 2015, which map is on file with the Town Clerk.

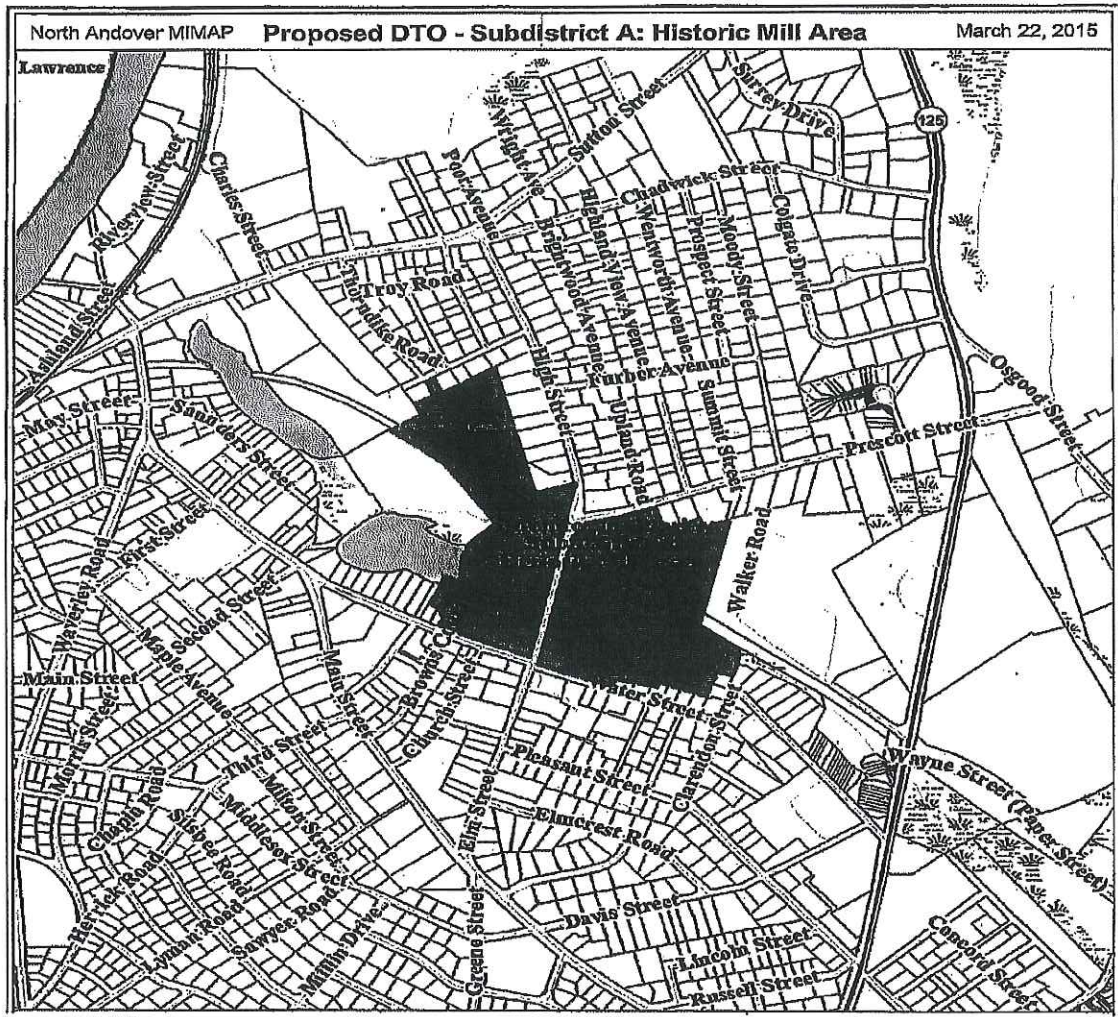
**ATTEST:
A True Copy**

Joyce A. Bradshaw
Town Clerk



Voted May 19, 2015

ATTEST:
A True Copy
Jayce A. Chadwick
Town Clerk



Voted May 19, 2015

APPROVED

Attorney General's Office

By: *[Signature]*

Date: 5/19/15

Art. 10 Town Meeting Date 5/19/15

**ATTEST:
A True Copy**

Joyce A. Boudreau
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
NORTH ANDOVER, MASSACHUSETTS 01845**

Joyce A. Bradshaw, CMMC
Town Clerk

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Form 2-3

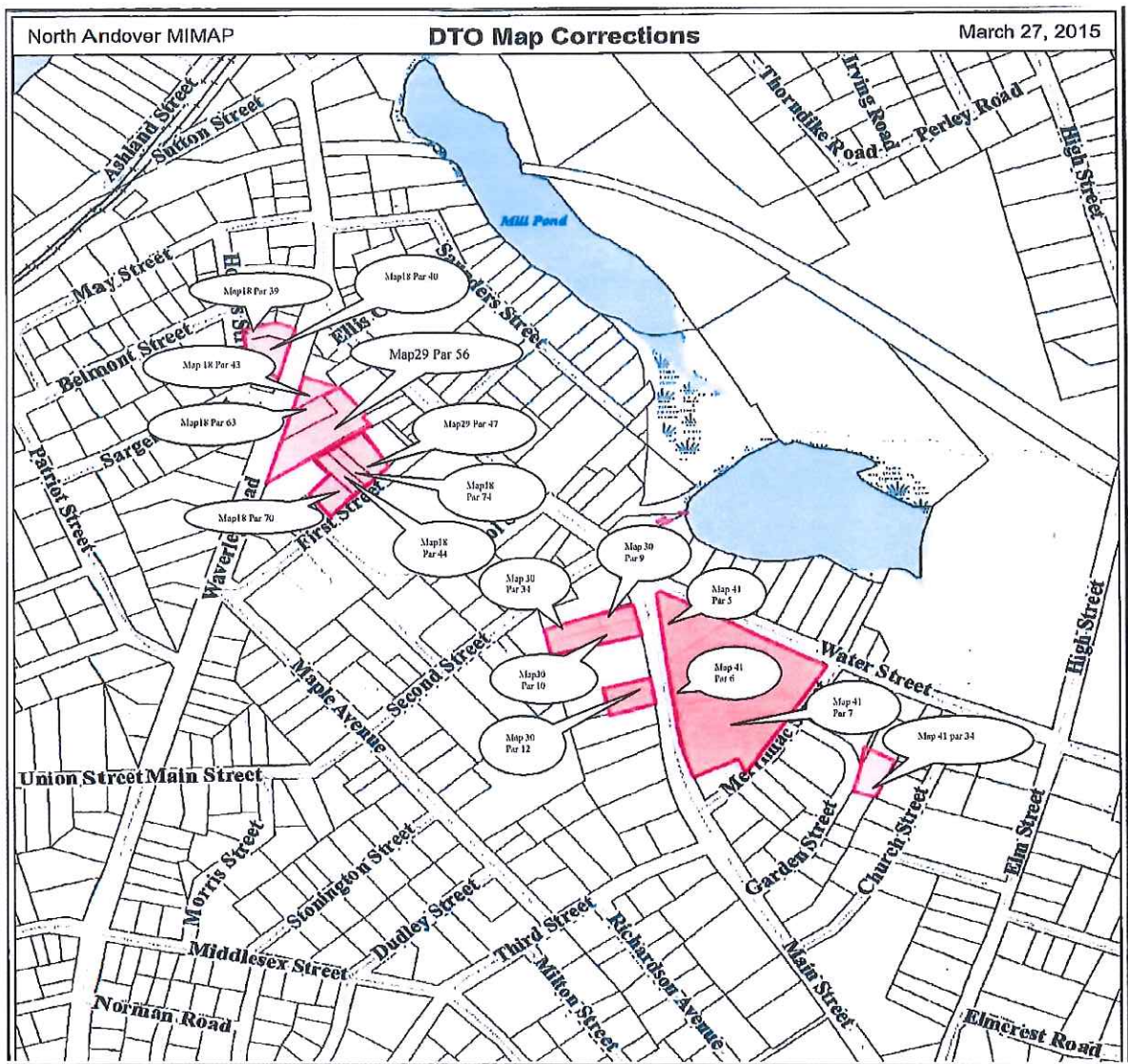
This is to certify that the following Change to Zoning Map for the Town of North Andover approved by the Attorney General September 19, 2013 was corrected by Article 11 taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Article 11: Amend Zoning Map – Downtown Overlay District (Corrections).

Unanimous vote to amend the Zoning Map for the Town of North Andover to rezone certain parcels of land to properly describe the Downtown Overlay District originally included within the Downtown Overlay District by Article 41 of the 2009 Annual Town Meeting, identified on the 2014 Town of North Andover Assessor's Maps as: Map 18, Parcel 39; Map 18 Parcel 40; Map 18 Parcel 43; Map 18, Parcel 63; Map 29 Parcel 56; Map 29 Parcel 47; Map 18 Parcel 74; Map 18 Parcel 44; Map 18 Parcel 70; Map 41 Parcel 34; Map 41 Parcel 05; Map 41 Parcel 06; Map 41 Parcel 07; Map 30 Parcel 09; Map 30 Parcel 10; Map 30 Parcel 34; and Map 30 Parcel 12, as more particularly shown as a portion of the shaded area depicted on the map entitled "DOT Map Corrections", dated March 22, 2015, which map is on file with the Town Clerk.

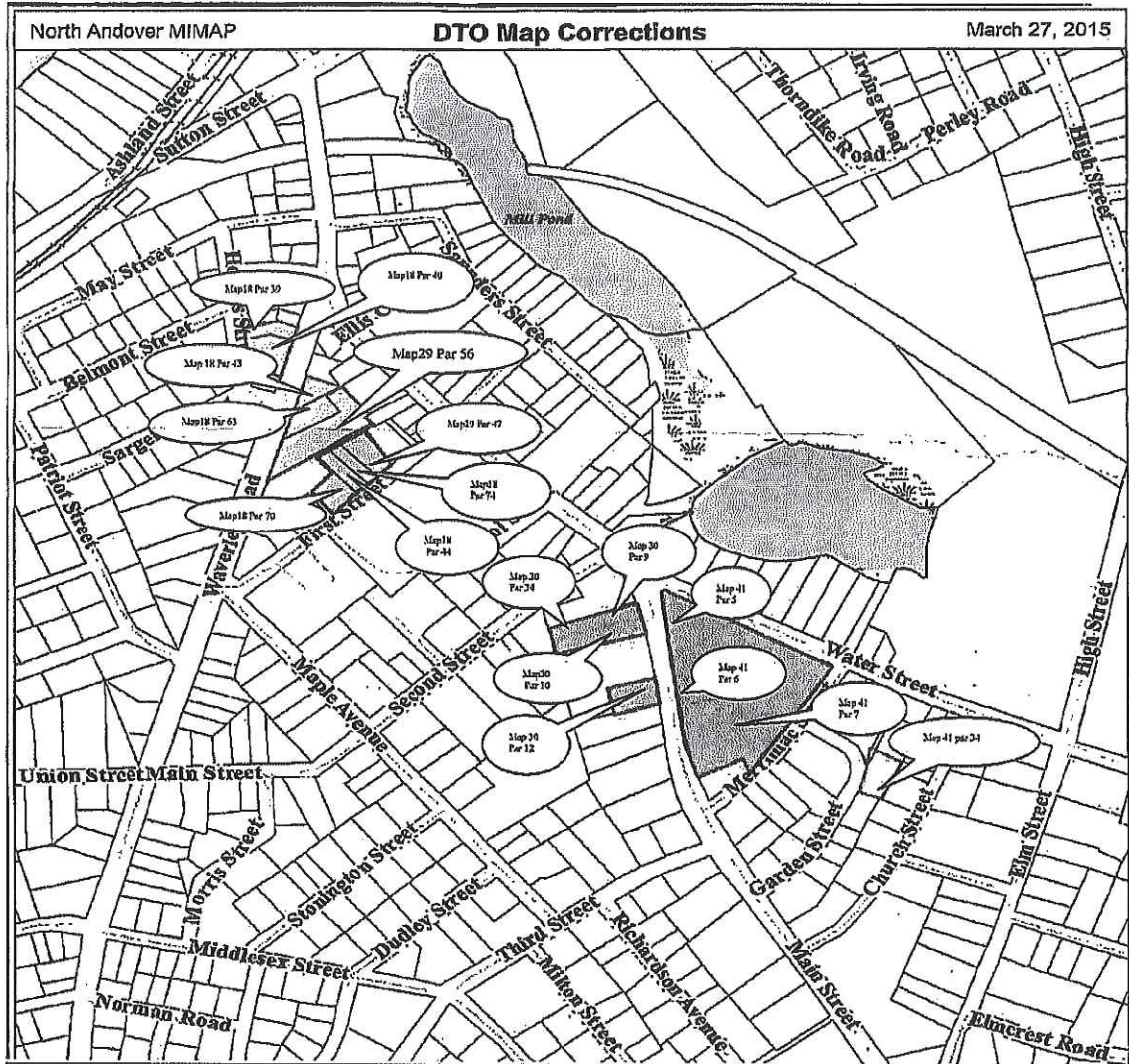
**ATTEST:
A True Copy**

Joyce A. Bradshaw
Town Clerk



Article 11 2015 Annual Town Meeting - Unanimous Vote May 19, 2015

ATTEST:
A True Copy
Joyce A. Bradshaw
Town Clerk



Article 11 2015 Annual Town Meeting - Unanimous Vote May 19, 2015

APPROVED

Attorney General's Office

By: [Signature]

Date: 9/11/15

Art. 11 Town Meeting Date 5/19/15

ATTEST:

A True Copy

[Signature]
Town Clerk



**TOWN OF NORTH ANDOVER
OFFICE OF THE TOWN CLERK
120 MAIN STREET
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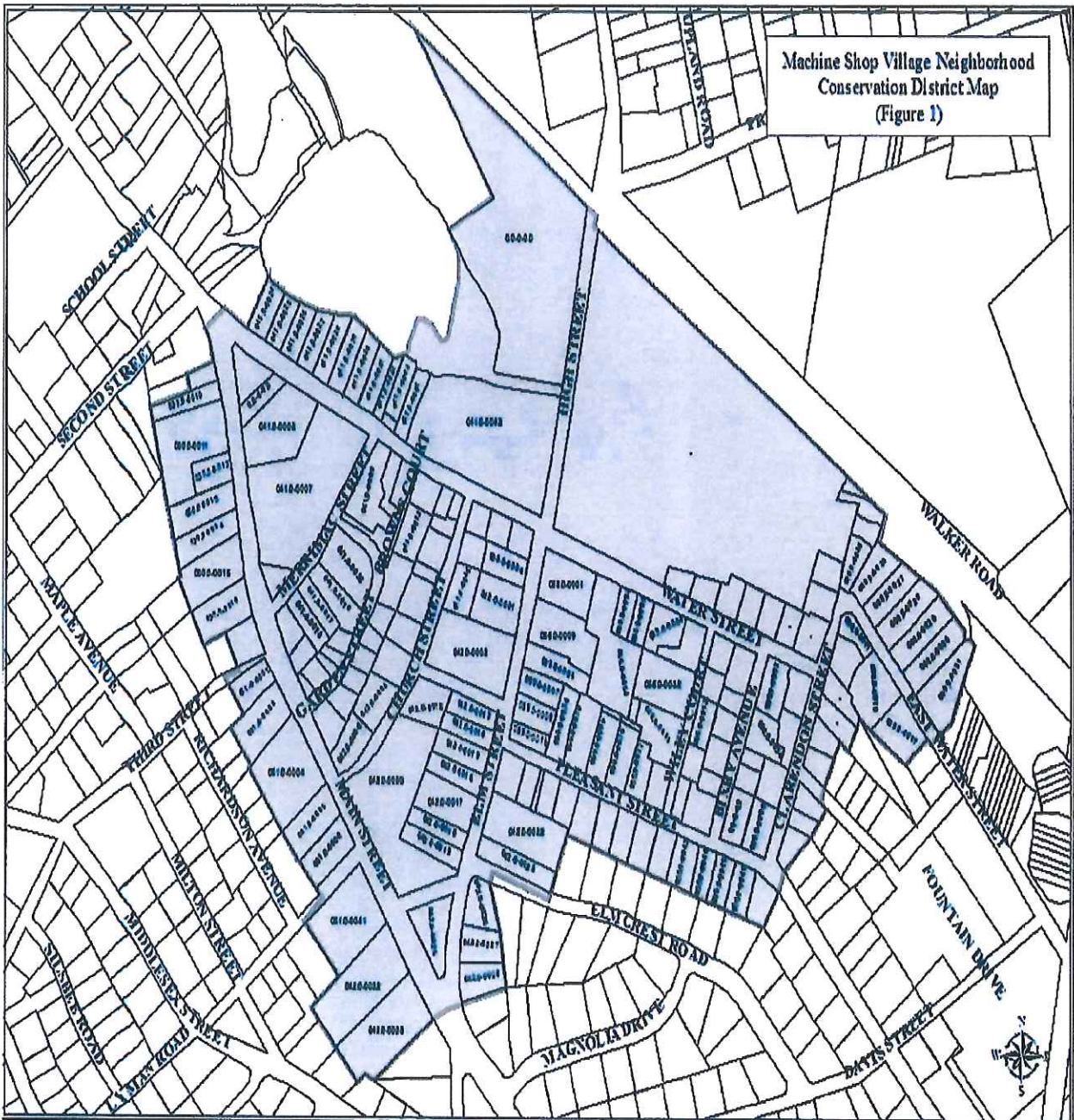
This is to certify that the following vote on Article 12 was taken at the Dissolved Annual Town Meeting for the Town of North Andover held May 19, 2015:

Article 12: Amend Zoning Map – Machine Shop Village Neighborhood Conservation District. Unanimous vote to amend the Zoning Map for the Town of North Andover to rezone certain parcels of land to properly describe the Machine Shop Village Neighborhood Conservation District originally included within the historic district by Article 34 of the 2008 Annual Town Meeting, shown as a portion of the shaded area depicted on the map entitled “Machine Shop Village Neighborhood Conservation District”, which is on file with the Town Clerk.

**ATTEST:
A True Copy**

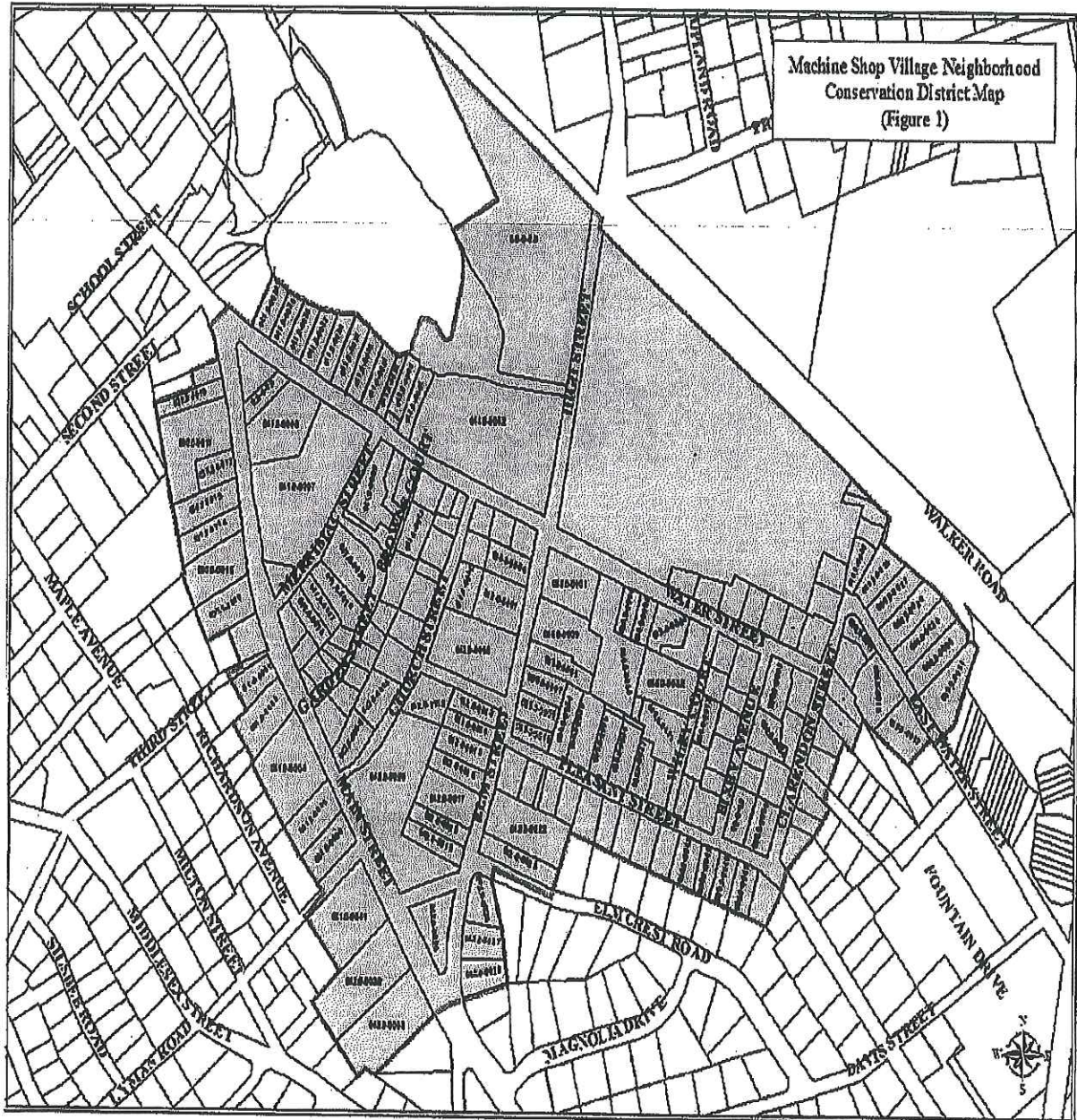
Joyce A. Bradshaw
Town Clerk

Machine Shop Village Neighborhood Conservation District Map
Unanimous Vote May 19, 2015



ATTEST:
A True Copy
Jayce A. Bradshaw
Town Clerk

Machine Shop Village Neighborhood Conservation District Map
Unanimous Vote May 19, 2015



APPROVED

Attorney General's Office

By: [Signature]

Date: 9/1/15

Art. 12 Town Meeting Date 5/19/15

ATTEST:

A True Copy

Joyce A. Broadbaker
Town Clerk